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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,774	10/06/2000	Frank-Ulrich Gadiel	005974/00069	3217
27383	7590	12/14/2004	EXAMINER	
CLIFFORD CHANCE US LLP 31 WEST 52ND STREET NEW YORK, NY 10019-6131			GARLAND, STEVEN R	
			ART UNIT	PAPER NUMBER

2125

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/680,774	GADIEL ET AL.	
	Examiner	Art Unit	
	Steven R Garland	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-19 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09072004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The abstract of the disclosure is objected to because the abstract should be a single paragraph. It is noted that applicant on page 11 of the response stated that a replacement sheet was being submitted however page 2 of the response only shows amendments to the abstract and no actual replacement sheet was submitted.

Correction is required. See MPEP § 608.01(b).

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 10-12 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 10-12 and 18 are all drawn to nonfunctional descriptive matter in the form of an arrangement of a data signal. Note MPEP section 2106. In response to applicant's arguments cases such as *In re Brelow* deal with the transitory nature of a chemical not a nonfunctional descriptive matter signal as in the instant claims. Further the claims are directed to a signal without any specified physical form.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1,2, 4, 7,8,10,11,13,14, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Harada et al. 5,844,563.

Harada et al. teaches a computer implemented modeling system, displaying an object, receiving an input from the user specifying the attachment of a graphic tool to the object and with the graphic tool representing a command to modify the object, saving an object history including the commands used to produce it, displaying the graphic tools, automatically modifying the geometry of the object in response to a command or commands, and concurrently active tools. See the abstract; figures; col. 1, line 7 to col. 2, line 14; col. 2, line 64 to col. 4, line 8; col. 5, line 31 to col. 6, line 16; col. 7, line 37 to col. 10, line 29; and the claims.

In response to applicant's arguments, Harada teaches the use of graphic tools indirectly attached to a 3D model to modify the model. See col. 3, lines 50-64 for example. Further claim 1 for example does not positively require the use of more than one tool, only the recitation of "one or more tools" is recited

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3,9,12,and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harada et al. 5,844,563 in view of Brodsky et al. 5,960,199.

Harada et al. teaches a computer implemented modeling system, displaying an object, receiving an input from the user specifying the attachment of a graphic tool to the object and with the graphic tool representing a command to modify the object, saving an object history an inputs, displaying the graphic tools, automatically modifying the geometry of the object in response to a command or commands, and concurrently active tools. See the abstract; figures; col. 1, line 7 to col. 2, line 14; col. 2, line 64 to col. 4, line 8; col. 5, line 31 to col. 6, line 16; col. 7, line 37 to col. 10, line 29; and the claims.

Harada while teaching the use of sessions does not specifically state that the process can suspended and then resumed in response to a user input.

Brodsky et al. teaches pausing and resuming in response to operator input. See col. 5, line 66 to col. 6, line 6.

It would have been obvious to one of ordinary skill in the art to modify Harada in view of Brodsky and pause the modeling operation and resume it later in response to

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an operator input. This would allow the operator to take a break in the design process and resume the design at a later time.

In response to applicant's arguments, Harada teaches the use of graphic tools indirectly attached to a 3D model to modify the model. See col. 3, lines 50-64 for example.

9. Claims 1-4, and 7-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleicher "A Graphics Toolkit Based on Differential Constraints" (cited by applicant) in view of Hatanaka 5,923,573

Gleicher teaches a graphics toolkit. a computer system for modeling objects, displaying a representation of an object, attachment of a graphic tool to the object (page 117, 1st column), displaying the tool attached to the object so that any modification of the tool will cause the geometry of the object to be modified, and automatic execution. See the abstract; the figures; pages 110, 116-117.

Gleicher does not specifically show a computer system but teaches the use of a computer system.

Hatanaka teaches a computer system with memory for CAD, storing modifications and regeneration. See the figures and col. 5, line 17 to col. 7, line 52.

It would have been obvious to one of ordinary skill in the art to modify Gleicher in view of Hatanaka to use a computer with memory and also store the programming and model and the commands used to produce it for later use such as after a temporary halt.

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10. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 6 is allowed.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 571-272-3741. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached at (571)272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRG
STEVEN GARLAND



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